

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**AXSOME THERAPEUTICS, INC. and
ANTECIP BIOVENTURES II LLC,**

Plaintiffs,

v.

TEVA PHARMACEUTICALS, INC.

Defendant.

**Civil Action No. 2:23-cv-01695 (MEF-LDW)
Civil Action No. 2:23-cv-23142 (MEF-LDW)
(consolidated)**

(Filed Electronically)

STIPULATION AND [PROPOSED] ORDER

This stipulation is made by and between Plaintiffs Axsome Therapeutics, Inc. and Antecip Bioventures II LLC, (collectively, “Plaintiffs”) and Defendant Teva Pharmaceuticals, Inc. (“Teva” and together with Plaintiffs, “the parties”) in the above-captioned action (the “Action”).

WHEREAS, Teva has put Plaintiffs on notice that it intends to argue that the following eleven claim limitations of the asserted claims of U.S. Patent Nos. 10,780,064, 11,752,144, and 10,966,942, 11,717,518 (collectively, the “Asserted Patents”) are indefinite under 35 U.S.C. § 112:

Asserted Claim(s)	Term
’064 patent (claims 1-17 and 19-23)	“of Asian descent”
’064 patent (claim 2)	“of Japanese descent”
’064 patent (claim 3)	“of Chinese descent”
’064 patent (claim 4)	“of Korean descent”
’064 patent (claims 1-17 and 19-23)	“significantly greater reduction”
’942 patent (claims 1-14 and 16-20)	“male”
’144 patent (claims 1-14)	“history of drug abuse”
’144 patent (claims 1-14)	“wherein the human patient does not experience dissociation”

'144 patent (claims 3, 7, 10)

“wherein the human patient is not monitored . . . for dissociation”

'518 patent (claims 4-6, 18-23)

“limiting but not discontinuing”

'518 patent (claim 18)

“or a combination thereof”

WHEREAS, the parties agree, subject to the Court’s approval, that the indefiniteness disputes in this matter will involve expert opinions and should be addressed during the merits phase of the case, notwithstanding that it may implicate related issues of claim interpretation.

NOW THEREFORE, Plaintiffs and Teva, by and through their respective undersigned counsel in this Action, and subject to the approval of the Court, stipulate as follows:

1. The exchange of preliminary proposed constructions and identification of evidence under L. Pat. R. 4.2 will include the terms that Teva has identified as being amenable to construction. The parties shall not be required to exchange preliminary proposed constructions or identify evidence under L. Pat. R. 4.2 for the eleven terms that Teva alleges are indefinite.

2. The indefiniteness arguments and presentation of supporting evidence are reserved for subsequent phases of this litigation as may otherwise be appropriate, including expert discovery, summary judgment, and/or trial.

3. Nothing herein limits rights Teva may otherwise have to argue the invalidity of the Asserted Patents with respect to indefiniteness.

4. Nothing herein limits rights Plaintiffs may otherwise have to dispute Teva’s indefiniteness arguments.

IT IS SO ORDERED:

Dated: _____

Hon. Michael E. Farbiarz, U.S.D.J.

IT IS SO STIPULATED.

Dated: July 31, 2024

/s/ Charles M. Lizza

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